

(d) If necessary to assure the availability of the funds blocked, the Secretary may at any time require the payment of the amounts due under any letter of credit described in paragraph (a) of this section into a blocked account in a domestic bank or the supplying of any form of security deemed necessary.

(e) Nothing in this section precludes the account party on any standby letter of credit or any other person from at any time contesting the legality of the demand from Libyan entity or from raising any other legal defense to payment under the standby letter of credit.

(f) This section does not affect the obligation of the various parties of the instruments covered by this section if the instruments and payments thereunder are subsequently unblocked.

(g) For the purposes of this section,

(1) The term *standby letter of credit* shall mean a letter of credit securing performance of, or repayment of any advance payments or deposits under, a contract with the Government of Libya, or any similar obligation in the nature of a performance bond; and

(2) The term *account party* shall mean the person for whose account the standby letter of credit is opened.

(h) The regulations do not authorize any U.S. person to reimburse a non-U.S. bank for payment to the Government of Libya under a standby letter of credit, except by payments into a blocked account in accordance with § 550.511 or paragraph (b) or (c) of this section.

(i) A person receiving a specific license under paragraph (b) or (c) of this section shall certify to the Office of Foreign Assets Control within five business days after receipt of that license that it has established the blocked account on its books as provided for in those paragraphs. However, in appropriate cases, this time period may be extended upon application to the Office of Foreign Assets Control when the account party has filed a petition with an appropriate court seeking a judicial order barring payment by the issuing or confirming bank.

(j) The extension or renewal of a standby letter of credit is authorized.

[51 FR 2466, Jan. 16, 1986]

§ 550.569 Commercial sales and exportation of agricultural commodities, medicine, and medical devices.

(a) *One-year license requirement.* The exportation of agricultural commodities (including bulk agricultural commodities listed in appendix A to this part 550), medicine, or medical devices to the Government of Libya, any entity in Libya, individuals in Libya, or persons in third countries purchasing specifically for resale to any of the foregoing, shall only be made pursuant to a one-year license issued by the United States Department of the Treasury, Office of Foreign Assets Control, for contracts entered into during the one-year period of the license and shipped within the 12-month period beginning on the date of the signing of the contract. No license will be granted for the exportation of agricultural commodities, medicine, or medical equipment to any entity or individual in Libya promoting international terrorism. Executory contracts entered into pursuant to paragraph (b)(2) of this section prior to the issuance of the one-year license described in this paragraph shall be deemed to have been signed on the date of issuance of that one-year license (and, therefore, the exporter is authorized to make shipments under that contract within the 12-month period beginning on the date of issuance of the one-year license).

(b) *General license for arrangement of exportation of covered products.* (1) The making of shipping arrangements, cargo inspection, obtaining of insurance, and arrangement of financing (consistent with § 550.571) for the exportation of agricultural commodities, medicine, and medical devices to the Government of Libya, entities in Libya, individuals in Libya, or persons in third countries purchasing specifically for resale to any of the foregoing, is authorized.

(2) If desired, entry into executory contracts (including executory pro forma invoices, agreements in principle, or executory offers capable of acceptance such as bids in response to public tenders) for the exportation of agricultural commodities, medicine, and medical devices to the Government of Libya, entities in Libya, individuals in Libya, or persons in third countries

purchasing specifically for resale to any of the foregoing, is authorized, provided that performance of an executory contract is expressly made contingent upon the prior issuance of the one-year license described in paragraph (a) of this section.

(c) *Instructions for obtaining one-year licenses.* In order to obtain the one-year license described in paragraph (a), the exporter must provide to the Office of Foreign Assets Control:

(1) The applicant's full legal name (if the applicant is a business entity, the state or jurisdiction of incorporation and principal place of business).

(2) The applicant's mailing and street address (so that OFAC may reach a responsible point of contact, the applicant should also include the name of the individual(s) responsible for the application and related commercial transactions along with their telephone and fax numbers and, if available, email addresses).

(3) The names and addresses and, if available, fax and phone numbers of all parties with an interest in the transaction. If the goods are being exported to a purchasing agent in Libya, the exporter must identify the agent's principals at the wholesale level for whom the purchase is being made. If the goods are being exported to an individual, the exporter must identify any organizations or entities with which the individual is affiliated that have an interest in the transaction.

(4) A description of all items to be exported pursuant to the requested one-year license, including a statement that the item is classified as EAR 99, and, if necessary, documentation sufficient to verify that the items to be exported are classified as EAR 99 and do not fall within any of the limitations contained in paragraph (d) of this section.

(5) An Official Commodity Classification of EAR 99 issued by the Department of Commerce, Bureau of Export Administration ("BXA"), certifying that the product is EAR 99 is required to be submitted to OFAC with the request for a license authorizing the exportation or reexportation of all fertilizers, live horses, western red cedar, and medical devices other than basic medical supplies, such as syringes, band-

dages, gauze and similar items, that are specifically listed on BXA's website, www.bxa.doc.gov/Regulations/TradeSanctionsReform

[ExportEnhancementAct.html](http://www.bxa.doc.gov/Regulations/TradeSanctionsReform/ExportEnhancementAct.html). Medical supplies that are specifically listed on BXA's website do not require an Official Commodity Classification of EAR 99 from BXA. BXA will also provide a list on its website of medicines that are ineligible for a one-year license under these procedures. If an exporter is uncertain whether the medicine to be exported is eligible, they should seek an Official Commodity Classification of EAR 99 from BXA and submit a copy to OFAC. See, 15 CFR 745.3 for instructions for obtaining Official Commodity Classification of EAR 99 from BXA.

(d) *Limitations.* (1) Nothing in this section or in any license issued pursuant to paragraph (a) of this section relieves the exporter from compliance with the export license application requirements of another Federal agency.

(2) Nothing in this section or in any license issued pursuant to paragraph (a) of this section authorizes the exportation or reexportation of any agricultural commodity, medicine, or medical device controlled on the United States Munitions List established under section 38 of the Arms Export Control Act (22 U.S.C. 2778); controlled on any control list established under the Export Administration Act of 1979 or any successor statute (50 U.S.C. App. 2401 *et seq.*); or used to facilitate the development or production of a chemical or biological weapon or weapon of mass destruction.

(3) Nothing in this section or in any license issued pursuant to paragraph (a) of this section affects prohibitions on the sale or supply of U.S. technology or software used to manufacture agricultural commodities, medicine, or medical devices, such as technology to design or produce biotechnological items or medical devices.

(4) Nothing in this section or in any license issued pursuant to paragraph (a) of this section affects U.S. non-proliferation export controls, including end-user and end-use controls maintained under the Enhanced Proliferation Control Initiative.

(5) This section does not apply to any transaction or dealing involving property blocked pursuant to this chapter or any other activity prohibited by this chapter not otherwise authorized in this part.

(e) *Covered items.* For the purposes of this part, agricultural commodities, medicine, and medical devices are defined below.

(1) *Agricultural commodities.* For the purposes of this section, agricultural commodities are:

(i) Products that are not listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1, and that fall within the term “agricultural commodity” as defined in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602); and

(ii) Products not listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1, that are intended for ultimate use in Libya as:

(A) Food for humans (including raw, processed, and packaged foods; live animals; vitamins and minerals; food additives or supplements; and bottled drinking water) or animals (including animal feeds);

(B) Seeds for food crops;

(C) Fertilizers or organic fertilizers; or

(D) Reproductive materials (such as live animals, fertilized eggs, embryos, and semen) for the production of food animals.

(2) *Medicine.* For the purposes of this section, the term *medicine* has the same meaning given the term “drug” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) but does not include any item listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1 (excluding items classified as EAR 99).

(3) *Medical device.* For the purposes of this section, the term *medical device* has the meaning given the term “device” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) but does not include any item listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1 (excluding items classified as EAR 99).

(f) *Transition period.* (1) Specific licenses issued prior to July 26, 2001 authorizing the performance of executory contracts for the sale of agricultural commodities, medicine, or medical equipment shall remain in effect until the expiration date specified in the license or July 26, 2002, whichever comes first. However, after July 26, 2001, new contracts for the exportation of agricultural commodities, medicine, or medical devices may be entered into only pursuant to the terms of, and as authorized by, this part.

(2) Specific licenses issued prior to July 26, 2001 authorizing the sale and exportation or reexportation of bulk agricultural commodities listed in Appendix A to 31 CFR parts 538 and 550 and Appendix B to 31 CFR part 560 shall remain in effect solely to permit completion of performance of contracts already entered into prior to July 26, 2001 pursuant to the license. As of July 26, 2001, new contracts for the exportation of bulk agricultural commodities may be entered into only pursuant to the terms of, and as authorized by, this part.

[66 FR 36690, July 12, 2001]

§ 550.570 [Reserved]

§ 550.571 Payment for and financing of exports of agricultural commodities, medicine, and medical equipment.

(a) *General license for payment terms.* The following payment terms for sales of agricultural commodities and products, medicine, and medical equipment pursuant to §§ 550.569 and 550.570 are authorized:

(1) Payment of cash in advance;

(2) Sales on open account, provided that the account receivable may not be transferred by the person extending the credit; or

(3) Financing by third-country financial institutions that are neither United States persons nor Government of Libya entities. Such financing may be confirmed or advised by U.S. financial institutions.

(b) *Specific licenses for alternate payment terms.* Specific licenses may be